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ABSTRACT

This paper examines the construction of time in education, emphasizing the development of the 180-day school year. A 1991 study showed that schools throughout the United States follow a distinctive time pattern that the report labeled dysfunctional. The norm for required attendance is 180 school days, stretching across a school year that begins in late summer and concludes near the end of spring. This 9-month pattern began in the period between the Civil War and World War I and developed in conjunction with compulsory education. Educating children was seen as beneficial to both and the country, but the fact that education was compulsory angered many parents who complained of an overreaching government. Subsequently, the school year, which had encompassed more of the calendar year, was shortened. The paper compares the school year in the United States with those of other countries and considers the benefits and drawbacks of lengthening the school year. Breaks in the school year are filled with activities that are important in a child's development, and the current 180-day period is intimately connected to parents' working life. The article examines some year-round plans and suggests that the study of time patterns can facilitate dialogue concerning the school year. (RJM)

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Schooltime[1]

Todd D. Rakoff[2]

How does time work? As we treat it socially, time is first of all a quantity. It is something we can measure out that most of us never have enough of. Very like money, in that regard. But time is not merely a quantity. It is also a means of coordination. Through time we can synchronize our activities, so that all members of both teams are present to play the game – and we can also sequence our activities, so that different games can be played on the same field one after another. And time also forms the basis of rhythm, the repeat of activities that forms the basic structure of our social lives.

Schooltime – the structure we have established for havin$_g$ children spend time in school - functions in all three ways. Schooltime allocates hours to education. It makes it possible to have classes that start at the same time and end at the same time, each day and each semester. And it embraces a rhythm of weekdays and weekends, Christmas holidays and spring holidays, and above all, summer. But schooltime is not, of course, the only such "clock" in our society. There is also worktime, and, although less robust, familytime as well. To understand schooltime, we must see it not only in itself, but as it intersects with the other times of the society.

According to the last census, 248.7 million people lived in the United States in 1990.[3] 46.4 million of these were enrolled in an elementary or secondary school.[4] This large part of the population – somewhere between

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[1] (c) Copyright 1999, Todd D. Rakoff.
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[3] U. S. Bureau of the Census, Statistical Abstract of the United States: 1998, Table 1.
[4] U. S. Bureau of the Census, Statistical Abstract of the United States: 1998, Table 252.

EA 030 019

one out of every 6 Americans[5] and one out of every 5 – lives by a very special calendar and clock. The rhythm of their lives is in large part dictated to them by the law.

Two facts set the foundation for this pattern. First, state statutes make school attendance mandatory, typically starting at age 6 or 7 and ending at age 16 or later[6]. This legal obligation rests both on the parent – enforceable either by a direct criminal prosecution or by a neglect proceeding – and on the child – who can be pursued as a truant.[7] Second, while states cannot constitutionally require attendance at a publicly-run school,[8] they can establish and fund such schools and let economic reality (or civic spirit) take its course. In the event, about 9 of every 10 students in the United States attend a public school.[9] The combination of these two facts – that the government requires a whole cohort of the population to participate in institutions over which the government has a near monopoly – gives schooltime its remarkable importance.

In 1991, Congress established a high-level study group, The National Education Commission on Time and Learning, and directed it to investigate "the quality and adequacy of the study and learning time of elementary and secondary students in the United States."[10] The Committee reported that schools throughout the United States follow a very distinctive time pattern. The norm for required attendance is 180 school days. With allowance for weekends and holidays, these 180 days stretch across a school year which, with few exceptions, begins in late summer (late August or early September) and ends near the end of spring (usually June). On each day, schools usually open and close at fixed times from the morning to the early afternoon: "a school in one district," said the Commission, "might open at 7:30 a.m. and close at 2:15 p.m.; in another, the school day might run from 8:00 in the morning until 3:00 in the afternoon." Within that day, there is, on average, 5.6 hours of classroom time, although much of that may be spent on other than core academic subjects.[11]

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[5] I apologize to those readers who are Americans but not from the United States for continuing to use an inadequate diction for which, unhappily, I see no uncumbered alternative.

[6] 3 J. A. Rapp, Education Law §8.03[1](1998). The state statutes are listed and briefly described in Vol. 7, Table T4.

[7] 3 J. A. Rapp, Education Law §.8.03[8](1998).

[8] Pierce v. Society of Sisters, 268 U.S. 510 (1925).

[9] Computed from U. S. Bureau of the Census, Statistical Abstract of the United States: 1998, Table 252.

[10] P.L. 102-62, §102(a) & (c), 105 Stat. 305 (1991).

[11] National Education Commission on Time and Learning, Prisoners of Time 7 (1994).

This tight pattern was, in the Commission's view, dysfunctional. "Unyielding and relentless, the time available in a uniform six-hour day and a 180-day year is the unacknowledged design flaw in American education."[12] Schools should be reinvented with an eye to the varying learning styles and needs of different kinds of pupils, which would entail much more flexible uses of time; as things stood, schools were (in the title of the Commission's Report) "Prisoners of Time."

Whether the Commission was correct or not in its prescriptions, it was certainly right in describing schooltime as a social pattern with considerable force. We might note the following features:

- The school "year" is defined as 180 "working" days;
- Although there are typically two or three week-long vacations within this "year," it is otherwise run straight through, so that it leaves a large gap between its end and its next beginning;
- That gap falls in the summer;
- The school "day" comprises just under 6 "working" hours;
- This "day," including breaks, starts fairly early in the morning and ends early in the afternoon.
- Finally – and so much taken for granted that the Commission did not even address the matter[13] – the school "week" consists of five days, save when there is a holiday; and
- These five days are Monday through Friday, leaving Saturday and Sunday as time off. [14]

In one respect this school "clock" mirrors the "time" displayed by other "clocks" of the society. School children "go to work" Monday through Friday, following the pattern of most adults. (Or perhaps most adults go to work Monday through Friday, following the pattern of school children.) The schooltime "week" and the worktime "week" reinforce each other. This very synchronization of "weeks" highlights the fact that as regards the "day" and

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[12] National Education Commission on Time and Learning, Prisoners of Time 8 (1994).

[13] Even when the Report highlighted efforts in some communities to have extended school services, it focused on extended days or extended years, but assumed the continuation of the five-day week. See National Education Commission on Time and Learning, Prisoners of Time 35 (1994).

[14] State-by-state details of minimum required number of days and length of days in the school calendar can be found in W. D. Valente, Education Law §8.1 and App. Table 17 (1985). Minima can be enforced against local school boards through the courts, e.g., Pittenger v. Union Area School Board, 24 Pa. Cmwlth. 442, 356 A.2d 866 (1976), or through threat of reduction in state subsidies.

the "year," the clock of schooltime is very different from the clock of worktime.

How did the school year get to be 180 days long, with most of the remaining days collected in a long summer vacation? The folk wisdom is that this pattern embodies the agricultural calendar of times past. A little thought will show, however, that this cannot be the whole story. A large part of the growing season, even in northern states, falls outside of late June, July and August, including the often labor-intensive planting and harvesting of many crops.[15] Other forces must have been at work.

Before the American Civil War, public education – that is, education provided at public expense although not obligatory in attendance – was characterized by two quite different calendars. In rural areas, schools were open at most six months of the year, half in the winter and half in the summer, with older children (who were more useful on the farm) attending only the winter session.[16] In many urban areas, by contrast, schools were open much longer. In the early 1840's, New York's school year lasted 49 weeks; Chicago's 48; Brooklyn's 11 months; Baltimore's the same; Philadelphia's 251 1/2 days; Detroit's 259.[17] (These are all roughly comparable figures.) Here again, that does not necessarily mean either that most children attended school or that individual students attended all year. But the pattern of the calendar was that schools were open all year, often operating on the basis of four terms of 12 weeks each, with a week's vacation between.[18] In urban areas, then, the pre-Civil-War school calendar to a large extent mimicked the calendar of commerce; in rural areas, by contrast, schools found space in the selvage left by the seasonal patterns of agriculture.

The about-nine-month, summer-off school year was constructed in the years roughly from the Civil War to World War I.[19] No adequate history of this development has as yet been written. As a matter of general social

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[15] Within the memory of two of my colleagues from agricultural states (Maine and Missouri), schools in some localities there started early in August to allow for a two week break in the fall at harvest time.
[16] C. F. Kaestle, Pillars of the Republic 15 (New York, 1983); R. L. Church and M. W. Sedlak, Education in the United States 57 (New York, 1976) offers a lower figure.
[17] 2 Report of the Commissioner of Education 1891-92, 664.
[18] M. A. Shepard and K. Baker, Year-Round Schools 2 (Lexington, Mass., 1977); National Education Association, A Longer School Day and Year 5 (Washington, D.C., 1985).
[19] M. A. Shepard and K. Baker, Year-Round Schools 1-4 (Lexington, Mass., 1977); National Education Association, A Longer School Day and Year 5 (Washington, D.C., 1985).

history, many factors were surely at work. On the side of extending the school year, and the attendance time of individual students, these pressures ranged from the need for a more educated work force, to a desire to Americanize immigrants, to a fear of competition from child labor, to the work of school reformers. On the other side, in favor of a large summer vacation, they extended from a fear that cities in the summer were especially unhealthy, to the ability to heat, but not air-condition, school buildings, to the need for teachers to find supplementary jobs.

In addition to these social and economic considerations – and doubtless there are more – the school year as we know it was also formed by the pressures of a specifically legal process. While it is hard to know exactly what proportion of the overall story this legal development represents, it surely is not negligible. It seems especially relevant to explaining how we ended up with a school year, 180 days, which represents, when compared to prior practice, a compromise.

The school year as we know it developed alongside of the development of compulsory education, which was first instituted in Massachusetts in 1852, but became general in the north and west only later in the century, and in the south only in the years just before the First War.[20] That is no coincidence. For if we think ourselves back into the legal framework of the era, we will see that making student attendance mandatory – that is, making it a legal matter - had several structural implications for the school calendar.

First, because education was mandatory, the longer the required period, the greater the requisite justification. Compulsory education is, well, compulsory; it is an infringement on the freedom of both the student and the parent. It is one thing to offer schooling year round at public expense; it is another to demand attendance. Consistent with the laissez-faire spirit of the age, there were indeed court cases in which parents claimed that compulsory education violated their rights. Consistent with the urge for social improvement also typical of the Victorian age, these claims did not prevail.[21] But they did reveal the mental starting point: compulsion needs to be

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[20] H.G. Good, A History of American Education 376 (New York, 1964). On earlier laws requiring parents and masters to educate the young (but not requiring attendance), which had been enacted in the 17th century but had long since been abrogated, see W. F. Aikman and L. Kotin, Legal Implications of Compulsory Education 9-23 (Mass. Center for Public Interest Law, 1976).

[21] See, e.g., State v. Bailey, 157 Ind. 324, 61 N.E. 730 (1901).

justified. Since the longer the school year, the greater the infringement, it seems on general principle (or at least the general principle of that era) that the legislatures should have started with a presumption in favor of requiring only a short period of attendance. Longer periods needed further justification.

The second implication of making education compulsory by state statute was that differences between rural and urban school calendars started to lose their self-evident legitimacy. Mandatory education required justification. The appropriate justification in the legal frame of that era had to have something to do with the social welfare that legislatures were entitled to pursue: that it was good for youngsters to go to school either in terms of their personal growth (even if their parents did not recognize it) or in terms of their fitness for citizenship and productivity. Or at least that it was better for them to go to school than to go to work on a full-time basis, for compulsory education laws were closely connected with laws prohibiting child labor to one degree or another. As the Supreme Court said (long after compulsory education was well established) "The requirement of compulsory schooling to age 16 must therefore be viewed as aimed not merely at providing educational opportunities for children, but as an alternative to the equally undesirable consequence of unhealthful child labor displacing adult workers, or, on the other hand, forced idleness."[22]

Now, if education was good for children (or good for the commonwealth because it was good for children), it would seem that children everywhere should be given an equal start in life, at least insofar as state legislation was concerned. The preexisting diversity of school calendars was a product of voluntarism and localism. One could, of course, argue a persisting diversity of conditions: one could argue that city youth were more in need of schooling than their country cousins; perhaps rural life outside of school was by itself more conductive to solid growth (or perhaps the children of immigrants in the cities needed more non-parental training in "American" ways). But the tendency of state-wide compulsion was the opposite. If 180 days represents a compromise of rural and urban standards, it was compulsory education that made it desirable to have a statewide compromise at all.

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[22] Wisconsin v. Yoder, 406 U.S. 205, 228 (1972).

Third, even though compulsory education statutes stipulated only a mandatory minimum number of days, provision of that minimum created pressure to reduce the length of the maximum public school year. If compulsory education laws were both needed and effective, more students - requiring more teachers, more books, more rooms - would enter the school system. Providing for those students had a first call on resources precisely because their education was mandatory. Offering an extended year at public expense for students (or parents) who choose it, would be relegated to a lower priority. If funds were scarce (hardly a counter-factual hypothesis where public education is concerned), the maximum school year would regress towards the required minimum, further reducing inter-district diversity.

In sum, if the actual facts tracked this mental experiment, we should expect the introduction of compulsory education into a situation characterized by great diversity in the school calendar to have reduced diversity not only in the mandatory, but in the offered, length of the school year; and we should expect the required school calendar to have started short and, if anything, grow over time.

There is indeed evidence to support this analysis. The length of required schooling did grow over time and did become more congruent with the length of time schools were actually open; meanwhile, the differences among districts were reduced.

The earliest compulsory education statute, a Massachusetts law of 1852 – the only such statute passed before the Civil War - required 12 weeks of schooling for those aged 8 to 14.[23] Perhaps reflecting the fact that in some districts the school year was broken up, or that children did not attend with great regularity, the statute mandated that only 6 of the required weeks had to be consecutive.[24] Reflecting the fact that in some districts even 12 weeks were too much, the statute also provided that 12 weeks were required only "if the public schools within such town or city shall be so long kept."[25]

Massachusetts amended its statute many times over the next fifty years; the course of those changes is revealing. In 1860, although the

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[23] Mass. St. 1852, c.240, §1.
[24] Mass. St. 1852, c.240, §1.
[25] Mass. St. 1852, c.240, §1.

mandatory schooling period remained at the 12 weeks stipulated in 1852, children under 12 could not be employed in manufacturing unless they had attended school for 18 weeks in the preceding year.[26] In 1873, the compulsory period for those 8 to 12 years old, without regard to employment status, was raised to 20 weeks .[27] By 1882, thirty years after the commonwealth first made education compulsory, the matter stood like this:

> Every person having under his control a child between the ages of eight and fourteen years shall annually cause such child to attend for at least twenty weeks some public day school in the city or town in which he resides, which time shall be divided so far as the arrangement of school terms will allow into two terms each of ten consecutive weeks. . .[28]

This was still short of the time schools were open, which by law was at least six months of the year for grammar schools and ten months for high schools (which, however, were not required at all in the smallest communities).[29]

In 1890, the compulsory period for children ages 8 through 14 (but not for the schools themselves) was extended to 30 weeks "if the schools are kept open that length of time."[30] Perhaps in compromise with the need for all hands at the harvest, students were allowed "two weeks' time for absences not excused."[31] These provisions were carried forward in 1894, but with the additional proviso that "attendance shall begin within the first month of the fall term of school,"[32] which represents a first effort to synchronize the school year of the school with the school year of the student. This was carried much further in the comprehensive revision of the law passed in 1898. Grammar schools were now required to be open 32 weeks a year, and high schools (except in the smallest communities) still for 40.[33] But

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[26] Mass. G.S. 1860, ch.42, §1.
[27] Mass. St. 1873, ch.279, §1.
[28] Mass. P.S. 1882, ch.47, §1.
[29] Mass. P.S. 1882, ch.44, §§1 & 2.
[30] Mass. St. 1980, ch.384.
[31] Mass St. 1890, ch. 384.
[32] Mass. St. 1894, ch.188.
[33] Mass. St. 1898, ch.496 §§1 & 2.

children ages 7 to 14 now had to attend "during the entire time the public day schools are in session."[34]

Or, as the point was rephrased in the statutory codification issued in 1902:

> Every child between seven and fourteen years of age shall attend some public day school in the city or town in which he resides during the entire time the public day schools are in session. . . The attendance of a child upon a public day school shall not be required if he has attended for a like period of time a private day school . . . Every person having under his control a child as described in this section shall cause him to attend school as herein required; and if he fails for five day sessions or ten half day sessions within any period of six months . . . he shall . . . be punished by a fine of not more than twenty dollars.[35]

The obligation to attend, 32 weeks for grammar school students, now approximated the current requirement; at the same time, it had become congruent with, indeed was defined in terms of, the school year measured by the length of time schools had to be open.

The statutes of New York, another leader in the movement for universal and compulsory education, reveal substantially the same developments, although not in exactly the same order. New York's first compulsory education law, passed in 1874, required children from ages 8 to 14 to attend 14 weeks of school a year. Following the pattern set in Massachusetts, only 8 of these had to be consecutive weeks.[36] By 1894, however, children aged 8 to 12 had to attend "as many days annually, during the period between the first days of October and the following June, as the public school of the district or city in which such child resides, shall be in session."[37] (Older children to age 16 had to attend likewise, when not

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[34] Mass. St. 1898, ch. 12.
[35] Mass. R.L. ch. 44, Sec.1 (1902).
[36] Act of May 11, 1874, ch.421, §1, 1874 N.Y. Laws 532. The statute also appears in E. W. Knight and C. L. Hall, Readings in American Educational History 370 (New York, 1951).
[37] Compulsory Education Law, ch. 671, §3, 1894 N.Y. Laws 1682, 1683.

lawfully employed; those 12 to 14 had to have at least 80 days of schooling per year.[38]) In 1903, children 12 to 14 were included in the group that had to go to school October to June, as long as the schools were in session,[39] and in 1909, the minimum age for the group was lowered to 7 years.[40]

Of greater significance, from our point of view, in 1909 New York began moving beyond reliance on the purely local school calendar. It did so by statutorily distinguishing between its larger, presumably urban, school districts and its smaller, probably rural, ones; whereas the requirement for the latter was attendance between October and June "as the public school of the district in which such child resides, shall be in session," for the former it was the entire time the schools were in session "which period shall not be less than one hundred and sixty days of actual school."[41] This period for the urban districts was raised to 180 days in 1917;[42] the rural districts followed suit in 1921;[43] but there continued to be some differences in the urban and rural requirements until the state legislature in 1928 went over the top and required all students 7 to 14, and those somewhat older if not employed, to attend a school session of "not less than one hundred and ninety days each year, exclusive of holidays and vacations."[44] (The present N.Y. statute, essentially congruent with the national standard, requires 190 days "*inclusive* of legal holidays that occur during the term."[45])

At the same time that state legislation in states like Massachusetts and New York was increasing the length of the mandatory minimum school year, and bringing rural districts up to a uniform standard, the maximum school year in urban areas was falling. As suggested above, this might have been the result of schools' having to tend not merely to a greater number of children, but also to their increased daily attendance;[46] and this in turn might have been the result of compulsory legislation.[47] But whether that is so or

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[38] Compulsory Education Law, ch. 671, §3, 1894 N.Y. Laws 1682, 1683.
[39] Act of May 7, 1903, ch.459, §3, 1903 N.Y.Laws 1063, 1064.
[40] Act of May 20, 1909, ch.409, §530, 1909 N.Y. Laws 880.
[41] Act of May 20, 1909, ch.409, §530, 1909 N.Y. Laws 880, 880-81.
[42] Act of May 18, 1917, ch. 563, §1, 1917 N.Y.Laws 1616, 1616-17.
[43] Act of April 20, 1921, ch.386, §621, 1921 N.Y.Laws 1211,1212.
[44] Act of March 27, 1928, ch.646, §620, 621, 1928 N.Y. Laws 1399, 1400-02.
[45] N.Y. Educ. Law §3204 (McKinney, 1995).
[46] Evidence is hard to find. Attendance per pupil overall rose from 78.4 days per year in 1870 to 121.2 days per year in 1921; but these figures include both rural and urban school districts. U.S. Department of Commerce, Historical Statistics of the United States Series H 520-530, p.375 (1989).
[47] To what extent compulsory education laws actually caused increased school attendance (and to what extent the increase was caused by other social forces) is debatable. The sanctions of the laws, and their enforcement, became stronger starting around 1890. H.G. Good, A History of American Education 378

not, the fact is clear: city school systems over the period leading up to World War I reduced the length of their over-minimum school years.[48] In his Report for 1891-92, the U.S. Commissioner of Education compared the school years in several major cities for 1891-92 with that of fifty years earlier. In New York, the school year had gone down from 49 weeks to 202 1/2 days; in Chicago, from 48 weeks to 192 days; in Philadelphia from 251 1/2 days to 201 days. In terms of starting and stopping dates, holidays, Saturday sessions – "the constant tendency," he said, was "toward a reduction of the time." The supposed benefits of a shorter year in terms of better health or improved learning had, he suggested, "not . . . been clearly proved"; what was clear was that a "boy of to-day" had to go to school for 11 years to receive as much instruction as a boy had received in 8, fifty years earlier.[49] Two years later, although the text of his Report still spoke in terms of urban schools being open "for two hundred days of the year,"[50] the reality that he reported in his statistics was that the average city school was open 191.9 days.[51] By 1900-01, the Report showed a further drop to 187.3 days[52] – not far from current standards.

By World War One, schools considered across-the-board were open for an average of 160 days a year.[53] During the 1920's, that average rose to a bit over 170 days.[54] While it has continued to inch up in later years to 180 days, in some states getting to that point only recently, the current situation had largely been created.

In light of its history, what distinguishes schooltime today is not merely that the school year is 180 days long, vacation in summer, but that it is the same school year virtually everywhere. Although adopted state-by –state, the number of days of schooling is almost uniform across the country. The diversity that typified previous times – diversity within each state as

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(New York, 1964). Even before then, the laws may have had an indirect effect by stating a public standard; and there was some correlative enforcement in child labor laws which made it illegal to hire a child in the appropriate age range who had not in the last year attended school the requisite minimum number of days. E.g., 1874 N.Y. Laws 532 and Mass. P.S. 1882, ch.48, §2. On the joint impact of these laws, see M. Stambler, The Effect of Compulsory Education and Child Labor Laws on High School Attendance in New York City, 1898-1917, History of Education Quarterly, Summer 1968, 189.

[48] National Education Association, A Longer School Day and Year 5 (1985).

[49] 2 Report of the Commissioner of Education for 1891-92, 664-65.

[50] 1 Report of the Commissioner of Education for 1893-94, xix.

[51] 1 Report of the Commissioner of Education for 1893-94, 26.

[52] 2 Report of the Commissioner of Education for 1900-01, 1529.

[53] U.S. Department of Commerce, Historical Statistics of the United States Series H 520-530, p.375 (1989).

[54] U.S. Department of Commerce, Historical Statistics of the United States Series H 520-530, p.375 (1989).

well as across states – is gone. The school year as a social concept has become much more defined and structured. The minimum year, the maximum year, and the mandatory year have coalesced. The school year is understood across the country, and is a standard referent by which other aspects of social life can be, and are, timed. The school year, from the 1920's onward, has become a legal and cultural norm.

What is historically created can, of course, change with history, too. The "normal" school year presents a norm that is once again open for debate in the society. Whereas opinion polls used to show very strong opposition to extending the school year,[55] attitudes have begun to shift. We have fairly good evidence of this. Every year, the magazine Phi Delta Kappan, in conjunction with the Gallup organization, conducts a poll regarding many aspects of education; often it asks a question regarding the length of the school year. Here is a question that was asked several times in the early eighties, and then again in the early nineties:

> In some nations, students attend school as many as 240 days a year as compared to about 180 days in the U.S. How do you feel about extending the public school year in this community by 30 days, making the school year about 210 days or 10 months long? Do you favor or oppose this idea?

In may be that the opening of this question is somewhat contentious, and likely to make respondents feel dissatisfied with the status quo. But while that might affect the magnitude of the responses (so that a 55% figure in favor of change might not represent a solid majority), it ought not change their movement over time. And there has been movement[56]:

	1982	1983	1984	1991	1992
Favor	37%	40%	44%	51%	55%
Oppose	53%	49%	50%	42%	35%
Don't Know	10%	11%	6%	7%	10%

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[55] See National Education Association, A Longer School Day and Year: Over Three Decades of Public Opinion Polling (1985).

[56] S.M. Elam, L.C. Rose & A.M. Gallup, The 23d Annual Gallup Poll of the Public's Attitudes Toward the Public Schools, 73 Phi Delta Kappan 41, 44-45 (Sept. 1991); S.M. Elam, L.C. Rose & A.M. Gallup, The 24th Annual Gallup Poll of the Public's Attitudes Toward the Public Schools, 74 Phi Delta Kappan 41, 49-50 (Sept., 1992).

A more recent poll simply asked whether respondents favored increasing the amount of time children spend in school; it did not differentiate between extending the school year and extending the school day, but did separate elementary school students from high schoolers. For high school, 60% favored more time, with 37% against and 3% uncertain; for elementary school, the results were 49% in favor, 48% opposed, and 3% uncertain.[57]

As a matter simply of the allocation of hours, many professional educators make the same lament we find in so many areas of life: there's not enough time. The National Education Commission on Time and Learning estimated the number of required hours of academic instruction in the last four years of schooling (i.e., in what we call high school) in four countries, and found that the minimum time in the U.S. was less than half of what was required in Japan, France, and Germany.[58] This result, however, reflects not only the length of the school year, but also the length of the school day and the mix, within the school day, of academic and non-academic work. An international comparison of the standard school year in 27 jurisdictions published in 1990 showed a more varied picture. Japan at 243 days a year topped the list, with West Germany not far behind; the Soviet Union came in at 211, the Netherlands at 200, and England at 192; and several countries besides the United States had a school year of about 180 days, including Spain, Sweden, and several Canadian provinces.[59] The United States has one of the shorter school years, but it is not unique. Indeed, the Commission's own recommendation was qualified in this regard: it was content to say that "some schools" in each district should be open year round "so that students can find the help they need, when they need it."[60] It is hard to argue against extra help if it can be afforded; but the suggestion hardly reaches the basic structural question. Another government report, issued 10 years earlier, had gone a bit further when it said that school districts and state legislatures should "strongly consider" instituting a 200- to 220- day school year.[61]

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[57] S.M. Elam, L.C. Rose & A.M. Gallup, 28th Annual Phi Delta Kappa/ Gallup Poll of the Public's Attitudes Toward the Public Schools, 78 Phi Delta Kappan 41, 52-53 (Sept., 1996).
[58] National Education Commission on Time and Learning, Prisoners of Time 24 (1994).
[59] M. J. Barrett, The Case for More School Days, Nov. 1990 The Atlantic Monthly 78, 80.
[60] National Education Commission on Time and Learning, Prisoners of Time 34 (1994).
[61] National Commission on Excellence in Education, A Nation At Risk 29 (1983).

The educators' case for a longer school year is fairly straight-forward: more instruction will produce more learning. This is not self-evidently true: it may be that in some schools no learning takes place at any time or, perhaps more likely, that after nine and a half months of effort no additional learning would take place in the additional tenth or eleventh months. Whether there is any proof that additional time in school produces more learning, is itself a contested point.[62] But assuming that there is some time for a rest between school years, it seems unlikely that the strict no-additional-benefit proposition is true. (If it is, many other countries are very mistaken.)

What is more debatable, is whether the marginal benefit of 20 or 40 more days of school is worth the cost. These costs come in two forms. The first is financial. Since the buildings are already there (although not necessarily air-conditioned), the biggest marginal cost would be additional salaries. It is unrealistic to expect teachers to work a longer year – and give up either their free time or their summer jobs – without paying them more, perhaps a good deal more. (The opposition of teachers' unions to legislative efforts to extend the school year is based, one assumes, at least in part on the suspicion that this quid-pro-quo would not materialize.) Perhaps 180 days is all the education that we, the taxpayers, are willing to buy. Or, at least, all that we are willing to buy as members of the public – for, of course, alternative summer activities cost many families a great deal. The Gallup Poll numbers might look quite different if respondents were asked whether they would favor raising the tax rate in order to provide a 210-day school year.

The other "cost" of a longer school year is the number of days of each student's life it would consume. "Free time" can be wasted time, but often it is not. For younger children, being on a team, going to camp, even just playing may be "teaching" valuable "lessons" we want our children to learn. We ought not think of "child-care" as comprising merely custodial arrangements to "keep kids off the street"; it can be much more. Indeed, it may well be that certain lessons that have to be learned cannot be learned in the formal structures that typify being in school. For teenagers, summer is often a time of paid employment. At that age, we need to equilibrate our

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[62] Compare M. J. Barrett, The Case for More School Days, Nov. 1990 The Atlantic Monthly 78, 84-86 with National Education Association, What Research Says About: Extending the School Day/Year: Proposals and Results 13-15 (1987).

desire to keep high-schoolers out of the full-time work force with our desire that they start to acquire the various disciplines of working. Americans believe in formal schooling, but only to a point – and perhaps that point is what the 180-day school year represents.

As a practical matter, there seems to be little movement toward actually enacting a school year longer than 180 days. The 1983 federal report advocating a 200- to 220-day school year was rebuffed by the states;[63] and while in the 1990's there have been some state-sponsored experiments in extending the school year,[64] the longest school year mandated by any state statute apparently is still only 182 days.[65] Perhaps the Massachusetts legislature will adopt the recent recommendation of a high level commission of that state, [66] that children be in school 190 days a year. But whatever the educational value of doing that, it would have little impact on the larger social issues involved. For they turn not on the mere allocation of hours, but rather on matters of coordination and social rhythm.

Coordination is a central issue because schooltime does not exist in a world by itself. Children tend to live with adults who tend to work, so schooltime rubs against worktime, normalized ever since the 1930's as the five day work week and written into law as the 40-hour week.[67] In worktime, there are 260 Mondays-through-Fridays in the 52 weeks which approximate a calendar year. Workers with considerable seniority operating under what would be considered good union contracts might be entitled to 4 weeks of vacation and a dozen other holidays, 32 work days in all.[68] This leaves even well-placed workers with a full-time work year of 228 days, which is more than nine weeks (of five days each) longer than students' school years. No likely increase in the school year would come close to bridging that gap. Nor would the most generous proposals to extend workers' vacation time. Nor even would any likely combination of the two.

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[63] National Education Association, What Research Says About: Extending the School Day/Year: Proposals and Results 6 (1987).

[64] See, e.g., Susan F. Axelrad-Lentz, Mich. State Dep't of Educ., Michigan Extended School Year Programs 1992-1995: An Evaluation of a State Grant Initiative (1996)(ERIC #ED410251).

[65] U.S. Dep't. of Education, Digest of Education Statistics 1997, Table 122.

[66] Massachusetts Commission on Time and Learning, Unlocking the Power of Time ii, 9-10 (1995)(recommending 190 days for students and an additional 10 paid days for development of curriculum and teachers' skills).

[67] Fair Labor Standards Act, 29 U.S.C. §201 et seq.

[68] For details, see Bureau of National Affairs, Basic Patterns in Union Contracts 57-66 and 101-110 (14th ed., 1995).

Much of the dissonance between schooltime and worktime used to be absorbed by many mothers' not working out of the home, or working only short days and short years. Women created a family time which served to mediate the historically different constructs of worktime and schooltime. With the rapid increase of women working full time, full year jobs[69], the conflict faces us in its unmediated form. It is not coincidental that public opinion has moved more in favor of a longer school year as families in which all parents work have become more common. But the underlying structural issue presented by the history of the school year – that the school year is substantially shorter than the work year – is unlikely to change.

What might change is the way the 180 days of the school year are organized. Indeed, in many school districts it already has. In the academic year 1997-98, about 1.9 million students, in over 2800 schools located especially in California and Texas, participated in school years organized in a very different way.[70] They were students in what has come to be called "year-round education."

In year-round education, students go to school only for a total of 180 days, but they attend at all seasons. Instead of one long summer vacation, they get several short ones interspersed through the year. Several particular plans have been tried. In the 45-15 plan, to take an example, students go to school for 45 week days and then are off for 15; four such cycles (allowing also for traditional holidays) comprise the year.[71] The 180-day year can also be made up of three cycles of 60 days on, 20 off; or two of 90 and 30.[72] Within these cycles, all students can be on the same schedule, or they can be split into separate cohorts. Under the 45-15 plan, to continue the example, students can be divided into 4 groups, each one starting the school year 15

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[69] As late as 1976, fewer than half of working women aged 25 to 54 – the women likely to have school-aged children at home - worked this way; by the early 1990's, over 60 percent did.[69] Phillip L. Rones, Jennifer M. Gardner, and Randy E. Ilg, Trends in Hours of Work Since the Mid-1970's, 120 Monthly Labor Review #4, 3 at 11 (April 1997).

[70] Attendance statistics from National Association for Year-Round Education (NAYRE) website: History of Year-Round Education, http://www.NAYRE.org (visited 12/28/98). For geographical spread, see the useful map in E. Warrich-Harris, Year-Round School: The Best Thing Since Sliced Bread, 71 Childhood Education 282, 283 (1995)

[71] For various possible year-round plans, see M. A. Shepard and K. Baker, Year-Round Schools 9-19 (Lexington, Mass. 1977) and D. Glines, Year-Round Education: History, Philosophy, Future 130-51 (San Diego, Cal. 1995).

[72] As of 1992, all three of these plans were in use roughly equally, and much more so than any of the yet other alternatives. See B.R. Worthen and S.W. Zsiray, Jr., What Twenty Years of Educational Studies Reveal About Year-Round Education 7 (1994).

days later than its predecessor. If this is done, one quarter of the students will be on vacation at any given time, and three quarters will be in school.

As can be seen, year-round education conducted on this multiple cohort basis in effect enlarges the capacity of school buildings. This saves money – not an enormous amount of money, since teachers still have to be paid and books and supplies bought – but money on new construction, and to some extent on non-instructional personnel.[73] Probably this savings has been the single strongest factor leading to the adoption of year-round education, which has been of special interest to school districts with rapidly increasing school-age populations.[74] As Los Angeles says about its considerable number of year-round schools (about 240 in the school-year 1998-99) they "operate on year-round multi-track schedules to accommodate overcrowded conditions by making use of school facilities throughout the year."[75]

If all that could be said about year-round education were, that it is a money-saving response to emergency conditions, we could treat it as an interim phenomenon, and nothing more. Certainly the multiple-cohort version of year-round education has little else to recommend it. Its effect is to destroy the school as an institution, or rather, to replace the school with several, perhaps four, sub-schools, differentiated by nothing more than being, let us say, fifteen days apart. This creates mischief – which extends from administrators who cannot hold full faculty meetings, to students whose fellow team members revolve in and out of the school, to children on vacation when their friends are not. A great part of working at a school, and especially of going to a school, consists of the solidarity it creates; and sharing school time helps create the school group. Shuffling students in and out like so many factory shifts robs going to school of much of its meaning.

But there are schools which have adopted year-round education on a single cohort basis, where, if anything, it increases the cost of education. And, of course, all students in the single cohort version of year-round

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[73] For a review of the data, see B.R. Worthen and S.W. Zsiray, Jr., What Twenty Years of Educational Studies Reveal About Year-Round Education 20-22 (1994).

[74] See the data in J.L. Zykowski et al, A Review of Year-Round Education Research 2-5 (Calif. Educ. Research Coop., 1991).

[75] Statement of March 25, 1998, Los Angeles Unified School District, posted on its website at: http://www.lausd.k12.ca.us/lausd/office_of_communications/March98c.html.

education share the same schedule, just as they do in the traditional school calendar. And so it is these two that more fairly compete.

This competition is not primarily a matter of academic performance. It is true that proponents of year-round education argue the educational superiority of their proposals. Students, they say, will forget much less in several short breaks than they now do over the long summer. Teachers, therefore, will be able to spend less time at the beginning of the semester going over old material, and will move on to more advanced material instead. They also argue that more frequent breaks will allow students who are falling behind to get the extra help they need before a whole year has gone by. But whether one long forgetting is better or worse than four short ones seems uncertain. Review at the beginning of a semester could as well be considered "reinforcement" as "waste." And it is not clear why a school district that could mobilize effective supplementary resources in a short break could not do so on an after-school tutoring basis as well.

The empirical research to date also indicates that the choice between the traditional pattern and year-round education has to be made on other than academic grounds. In part this is because different studies have focused on plans which have varied in their conception and in their implementation, and have utilized different research designs; this has made problematic any generalization from individual studies to the issue as a whole. But in part it is because different studies have in fact drawn different conclusions: positive, neutral and negative. What appears to be a careful survey of the literature, conducted in 1994, found that "[t]he preponderance of evidence suggests that YRE [year round education] students' performance on measures of academic learning (e.g., reading, math) is about the same in most studies as their performance while on traditional schedules, while some YRE programs were found to yield significantly higher student achievement scores. . . . Overall, there appears to be a slight but not overwhelming advantage for YRE students. . . . What is clear is that well-implemented YRE programs do not result in any lessening of learning."[76] Another review, made a few years earlier, reached a similar result: "There are no definitive studies showing that student achievement in year-round programs differs from that of students in traditional school programs."[77] These

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[76] B.R. Worthen and S.W. Zsiray, Jr., What Twenty Years of Educational Studies Reveal About Year-Round Education 10-11 (1994).

[77] J.L. Zykowski et al, A Review of Year-Round Education Research iv(Calif. Educ. Research Coop., 1991).

conclusions might be of great comfort, if by reason of financial necessity one were driven to adopt year-round education in its multi-cohort form, and wanted some assurance that a generation of students were not being greatly harmed,[78] (although even here one might worry about the failure of many studies to reveal what form of year-round education they were addressing). But on the broader issue of whether schools should in general be reorganized, they are of little help.

The relevant questions are not about school learning, but rather about how we want our children to grow up in the larger sense of the term (which includes the many other types of things we want them to learn), and about how we as adults propose to take care of them. In the traditional calendar all the school days are clustered in fall, winter, and spring. This pattern, fall-winter-spring "on," summer "off," is, as we have seen, historically created, reflecting remnants of forces as varied as the rural school calendar and the lack of air-conditioning. Whatever its original purpose, its effect is to establish a strong rhythm to the school year, by which the activities of millions of school children are coordinated with each other but differentiated from the activities of adults. This differentiation appears most strongly not in the cluster of school days, but rather in the cluster of non-school days. The central issue is summer: summer, not as understood by the scientist, but as understood by the society.

Summer is a period of time with a strong, largely positive cultural valence. There is more here than the simple statement that being on vacation is usually fun, although that is true. Specific functional realities are embedded in the current institutional arrangements. Camps are summer camps. Full-time programs to develop athletic skills are summer programs. Full-work-week but short-term jobs are summer jobs. Beyond that, summer has developed an emotional and symbolic appeal. The rhythm inherent in the idea that summer time is a different time has acquired an independent cultural force. Insofar as they can, Americans like living on the assumption that, because it is summer time, the living is easy. Many want their children to learn to live that way, too

The case for a year-round calendar comes down to the claim, broadly speaking, that it is a better fit with modern realities than is the long-summer-

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[78] For a similar conclusion reached with regard to one particular implementation of a year-round schedule, see J.L. Herman, Novel Approaches to Relieve Overcrowding, 26 Urban Education 195 (1991).

off pattern. Few adults can take extended summer vacations, and in some jobs they can hardly take time off in the summer at all; opportunities for recreation exist in the fall, winter, and spring as well as summer; in some communities, indeed, "year-round education" is called the "four-vacation plan." Recreation programs do not need to be fit into the "summer camp" model, but can be offered – perhaps more easily offered – on a year-round basis; and for those for whom school is not only a place of learning but also a social-service agency, perhaps again it is easier to continue those services across shorter vacations than across the summer.[79]

In evaluating these claims, one must of course admit that for families summer is a problem as well as an opportunity. Adults on worktime cannot live summer the way children can. Of course, when the workers in the family are themselves on vacation at times in the summer, having the youngsters on vacation enables the family as a unit to go on a trip or otherwise do things together. But such family vacations are, for all but the very, very lucky few, much shorter than the 10 or 12 weeks students are out of school. For the rest of the time, the absence of school means the presence of children who need care and activity. These needs become an immediate problem for family units in which all of the adults work: two-parent families with dual careers or one-parent families with a single career. Such families have always existed, but of course they have become more common in the last quarter century.

It may fairly be asked, in other words, whether the school year as we know it depends on an assumption that during the summer Mom will be home. This is not to say that Mom necessarily dislikes her role; spending time with children in the summer can be a struggle to find "something to do," but it can also be a chance to be together, and do things together, in a more relaxed and more complete way than is possible when school is in session. But it is to say that the problems of family coordination when all the adults are at work and the children are out of school can be intense. A very large block of time – ten to twelve work weeks' worth – has to be covered. Almost no single alternative – not even the most extended of private camps – will cover it all. Parents who work inevitably have to put together a pastiche of arrangements. Especially for younger children, what we see is a play group here, a child-care provider there, a relative for part of the time, a one-week or two-week program, parents' vacation time, perhaps

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[79] D. Glines, Year-Round Education: History, Philosophy, Future 119-20 (San Diego, Cal. 1995).

some personal leave days for a parent or two, and September has come again.

But it is a mistake to think that the fundamental difficulty here is the collection of non-school days into a single long vacation period. The fundamental difficulty is the different length – the considerably different length – of the school year and the work year. This is unlikely to go away. Year-round education, despite its name, does not change this basic point. It could indeed be argued that 180-days on a year-round basis represents the worst of both worlds, not the best. The particular rhythm of "summer" is gone, and students' lives more closely resemble those of their parents. But parents are still unlikely to be free from work for most of the 12 weeks their children are not in school; and now there are four distinct periods in which alternative arrangements must be made. Moreover, the chance for a substantial alternative experience – including a substantial work experience – is now gone.

In truth, which arrangement is most convenient seems highly dependent on context: geography, class, and purely personal circumstance all play a part. As regards arranging care, for some children there are relatives happy to have the child for a week or two at a time, but not the whole summer; for others, there are formal child care arrangements more easily made once than many times; and for quite a number of children the way the vacations arise will also determine how they spend time with a distant, separated parent. As regards alternative uses of vacation time, some children participate in serious summer programs, or have serious summer jobs, and some do not; some communities will succeed in developing innovative uses for the shorter vacations of year-round calendars, and some will not; in some neighborhoods children can be safely sent out to play by themselves for a length of time, and in some not. One might think that older children are more likely to make productive use of the summer, and that that fact favors using year-round schedules in elementary school, and traditional schedules from there on – and, indeed, year-round education is more common in elementary schools – but compromising in that fashion only further fragments the family time of those with more than one child. Perhaps because the matter varies so much, opinion polls seem to offer no clear verdict, either. Rather, they tend to support the generalization that

most (but not all) people adapt, and, having adapted, tend to favor the status quo in their community, whichever it is.[80]

In the end, probably the most significant consideration regarding how the school year should be organized is the most nebulous. The traditional school year is very different from the standard work year. It is this fact which creates the problems that the year-round proposals attempt to ameliorate. But it may also be this fact that creates the special value of the school year.

Time differentiation, historically and cross-culturally, is one of the important ways in which societies differentiate meaning. Most traditionally, differentiated time divided the sacred from the profane. The presence within the same society of both Sabbath days and work days stood as a recognition that there is more than one side to life. In our society, the religious differentiation of time does not have the force it once had, and as a pluralist society we are indeed committed to the idea that we ought not create society-wide "sacred" time. It is still important to assert the principle that living is not synonymous with working; and it is still true that a powerful way to do this is by differentiating time. The still-vibrant rhythm of schooltime is now the most powerful rhythm we have with which to counter the rhythm of worktime. Perhaps it is this truth that should make us want to maintain "summer" for our children. This does not mean that we can expect women to stop working in the summer, or that we can ignore the need as a society to make sure there is a good supply of worthwhile activities available during the summer. What it does mean is that we ought to bridge the gap between the school year and the work year in a way that embraces their difference rather than tries to deny it.

The other feature of schooltime is, of course, the length of the school day. The story is similar. The roughly 51/2 hours of classroom time per day reported by the National Education Commission on Time and Learning became the pattern during the post-Civil War period, and is an hour or so shorter than the school day in pre-Civil War urban schools.[81] State law,

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[80] J.L. Zykowski et al, A Review of Year-Round Education Research 39(Calif. Educ. Research Coop., 1991). Some school districts have, however, been forced by public opinion to give up on year-round experiments. L. Rodgers, The Pros and Cons of Year-Round Education at the Elementary Public School Level 33 (1993)(thesis available in ERIC, #ED370160).

[81] 2 Report of the Commissioner of Education, 1891-92, 664. See also W. A. Cook, High School Administration 140-43 (Baltimore, 1926).

either by statute or by administrative regulation, typically sets a required minimum number of hours per year, while local school boards determine the actual starting and ending times for the day. There is some tendency to require more hours for secondary than for elementary students. Several states, for example, require 900 hours of instruction for elementary students (i.e., 180 five-hour days) and 990 hours (five-and-a-half hour days) in secondary schools.[82] The actual starting times are often earlier for high school than elementary school students: high schoolers are more likely to have team practice, or jobs, to be fit in after school, and are more able to care for themselves during the dark hours of winter mornings; staggering schedules is especially important in districts where students are bused, so that drivers and vehicles can make more than one run.

Many educators favor lengthening the day, at least in the sense that they advocate reserving the existing 5 1/2 hours for core academic subjects; if the schools are to continue doing the other things they do, the length of the overall school day will have to grow.[83] The current school day is, of course, shorter than the normal work day, and this creates obvious problems of family coordination for most modern families. There are numerous ways of filling the gap: some children look after themselves; some work part-time; some are cared for by an adult outside their home; some are enrolled in structured, purposeful programs.

Adults are, however, somewhat less enthusiastic about lengthening the school day than lengthening the school year. In the 1993 Gallup Poll, forced to choose a method of increasing school time, 47% of respondents would increase the number of days, while 33% would make each day longer. (5% would hold Saturday morning classes, and the rest either would combine the nostrums or had no view.)[84] This may reflect a strong sense that children tire out by the end of the day, and deserve to play; it may reflect the importance attributed to "extra-curricular" activities held after school, or to part-time employment; it may also reflect the increasing availability of end-of-day child-care programs, many of them held on school premises.

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[82] See Council of Chief State School Officers, Key State Education Policies on K-12 Education 15-16 (1996).

[83] National Education Commission on Time and Learning, Prisoners of Time 34 (1994); Massachusetts Commission on Time and Learning, Time for Change 7 (1994).

[84] S.M. Elam, L.C. Rose & A.M. Gallup, The 25th Annual Gallup Poll of the Public's Attitudes Toward the Public Schools, 75 Phi Delta Kappan 137, 147-48 (Oct., 1993).

What the study of time patterns can most usefully contribute to the social dialogue on this range of issues, is to emphasize that the source of the problem lies in the gap between the school day and the work day and therefore that both of those boundaries are important. For reasons similar to (but probably less intense than) those given a few pages ago regarding the gap between the school year and the work year, there is a lot to be said for continuing to structure "after school" activities as something other than "school" itself. There is a great need to increase the social provision of opportunities here, and also some real movement to address that need. But what also needs to be done, and here there has been barely a glimmer of social recognition, is to control the ending time of the work day, which is to say, the other end of the school day – work day gap. This is not merely a matter of the number of hours parents work; it is also, and for many parents more so, a matter of increasing their control over, or at least their ability to rely on the regularity of, the end of the work day. Here again, we need to establish structures that limit the claims of worktime in order that other times may flourish.